

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STEVEN ANDREW SARNOWSKI,
Plaintiff,
v.
NISSAN NORTH AMERICA, INC.
Defendant.

Case No. 1:22-cv-01144-ADA-CDB

SCHEDULING ORDER (Fed. R. Civ. P. 16)

Pleading Amendment Deadline: June 5, 2023

Discovery Deadlines:

- Initial Disclosures: December 22, 2022
- Expert Disclosures: September 25, 2023
- Fact Discovery Cut-Off: September 11, 2023
- Expert Discovery Cut-Off: December 18, 2023
- Mid-Discovery Status Conference: June 13, 2023
at 9:00 a.m., in Bakersfield Federal Courthouse
510 19th Street, Bakersfield, CA 93301

Non-Dispositive Motion Deadlines:

- Filing: September 11, 2023
- Hearing: On or before October 16, 2023, at 10:30
a.m., in Bakersfield Federal Courthouse

Dispositive Motion Deadlines:

- Filing: October 9, 2023
- Hearing: November 20, 2023, in Robert E. Coyle
United States Courthouse, Tulare Street, Fresno,
CA 93721, Courtroom 1, 8th Floor

Pre-Trial Conference: December 1, 2023, at 1:30
p.m. Fresno Courtroom 1, 8th Floor

Trial: January 9, 2024, Fresno Courtroom 1
8th Floor, 8:30 a.m.

1 In this action filed September 8, 2022, Plaintiff Steven Andrew Sarnowski ("Plaintiff") is
2 asserts claims against Defendant Nissan North America, Inc. ("Defendant") for: (1) Violation of the
3 Song-Beverly Act-Breach of Express Warranty; (2) Violation of the Song-Beverly Act-Breach of
4 Implied Warranty; (3) Violation of the Song-Beverly Act Section 1793.2(b).

5 **I. Date of Scheduling Conference**

6 December 8, 2022, before Magistrate Judge Chris D. Baker.

7 **II. Appearances of Counsel**

8 Allen Amarkarian, Esq. appeared on behalf of Plaintiff.

9 Shahram Nassi, Esq. appeared on behalf of Defendant.

10 **III. Magistrate Judge Consent:**

11 Consent / Decline of U.S. Magistrate Judge Jurisdiction forms not filed at this time.

12 **Notice of Congested Docket and Court Policy of Trailing**

13 Due to the District Judges' heavy caseload, the adopted policy of the Fresno Division of the
14 Eastern District is to trail all civil cases. The parties are hereby notified that for a trial date set before a
15 District Judge, the parties will trail indefinitely behind any higher priority criminal or older civil case
16 set on the same date until a courtroom becomes available. The trial date will not be reset.

17 The Magistrate Judges' availability is far more realistic and accommodating to parties than that
18 of the U.S. District Judges who carry the heaviest caseloads in the nation and who must prioritize
19 criminal and older civil cases over more recently filed civil cases. A United States Magistrate Judge
20 may conduct trials, including entry of final judgment, pursuant to 28 U.S.C. § 636(c), Federal Rule of
21 Civil Procedure 73, and Local Rule 305. Any appeal from a judgment entered by a United States
22 Magistrate Judge is taken directly to the United States Court of Appeal for the Ninth Circuit.

23 The Fresno Division of the Eastern District of California, whenever possible, is utilizing United
24 States Article III District Court Judges from throughout the nation as Visiting Judges. Pursuant to the
25 Local Rules, Appendix A, such reassignments will be random, and the parties will receive no advance
26 notice before their case is reassigned to an Article III District Court Judge from outside of the Eastern
27 District of California.

28 Therefore, the parties are directed to consider consenting to Magistrate Judge jurisdiction to

1 conduct all further proceedings, including trial, and to file a consent/decline form (provided by the
2 Court at the inception of this case) indicating whether they will consent to the jurisdiction of the
3 Magistrate Judge.

4 **IV. Pleading Amendment Deadline**

5 Any requested pleading amendments are ordered to be filed, either through a stipulation or
6 motion to amend, no later than June 5, 2023. The parties are advised that filing motions and/or
7 stipulations requesting leave to amend the pleadings does not reflect on the propriety of the amendment
8 or imply good cause to modify the existing schedule, if necessary. All proposed amendments must (A)
9 be supported by good cause pursuant to Fed. R. Civ. P. 16(b) if the amendment requires any
10 modification to the existing schedule, *see Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609
11 (9th Cir. 1992), and (B) establish, under Fed. R. Civ. P. 15(a), that such an amendment is not (1)
12 prejudicial to the opposing party, (2) the product of undue delay, (3) proposed in bad faith, or (4) futile,
13 *see Foman v. Davis*, 371 U.S. 178, 182 (1962).

14 **III. Discovery Plan and Cut-Off Date**

15 The parties are ordered to exchange the initial disclosures required by Fed. R. Civ. P. 26(a)(1)
16 on or before December 22, 2022.

17 The parties are ordered to complete all discovery pertaining to non-experts on or before
18 September 11, 2023, and all discovery pertaining to experts on or before December 18, 2023.

19 The parties are directed to disclose all expert witnesses¹, in writing, on or before September 25,
20 2023, and to disclose all rebuttal experts on or before October 2, 2023. The written designation of
21 retained and non-retained experts shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and
22 (C) and shall include all information required thereunder. Failure to designate experts in compliance
23 with this order may result in the Court excluding the testimony or other evidence offered through such
24 experts that are not disclosed pursuant to this order.

25
26
27
28 ¹ In the event an expert will offer opinions related to an independent medical or mental health
evaluation, the examination SHALL occur sufficiently in advance of the disclosure deadline so the expert's
report fully details the expert's opinions in this regard.

1 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to experts
2 and their opinions. Experts must be fully prepared to be examined on all subjects and opinions
3 included in the designation. Failure to comply will result in the imposition of sanctions, which may
4 include striking the expert designation and preclusion of expert testimony.

5 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement
6 disclosures and responses to discovery requests will be strictly enforced.

7 A mid-discovery status conference is scheduled for June 13, 2023, at 9:00 a.m. before
8 Magistrate Judge Christopher D. Baker. Counsel SHALL file a joint mid-discovery status conference
9 report no later than one week before the conference. Counsel also SHALL lodge the joint status report
10 via e-mail to CDBorders@caed.uscourts.gov. The joint status report SHALL outline the discovery
11 counsel have completed and that which needs to be completed as well as any impediments to
12 completing the discovery within the deadlines set forth in this order. Counsel SHALL discuss
13 settlement and certify in the joint status report (1) that they have met/conferred regarding settlement,
14 and (2) proposed dates for convening a settlement conference before a U.S. magistrate judge.

15 **IV. Pre-Trial Motion Schedule**

16 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
17 than September 11, 2023² and heard on or before October 16, 2023. Discovery motions shall be set
18 before Magistrate Judge Baker. For these hearings and at the direction of the Courtroom Deputy Clerk,
19 the Court may permit counsel to appear remotely (via Zoom) or via teleconference [(877) 402-9757,
20 Access Code 6966236] provided the Courtroom Deputy Clerk receives a written notice of the intent to
21 appear telephonically no later than five court days before the noticed hearing date. All other non-
22 dispositive hearings SHALL be set before Judge de Alba.

23 No motion to amend or stipulation to amend the case schedule will be entertained unless it is
24 filed at least one week before the first deadline the parties wish to extend. Likewise, no written
25 discovery motions shall be filed without the prior approval Magistrate Judge Baker. A party with a
26

27
28 ² Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable time of
discovery of the dispute, but in no event later than 30 days after the expiration of the non-expert discovery
deadline.

1 discovery dispute must first confer with the opposing party in a good faith effort to resolve by
2 agreement the issues in dispute. If that good faith effort is unsuccessful, the moving party promptly
3 shall seek a telephonic hearing with all involved parties and Magistrate Judge Baker. To schedule this
4 telephonic hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at (661)
5 326-6620 or via email at SHall@caed.uscourts.gov. At least three days before the conference, counsel
6 SHALL file informal letter briefs detailing their positions. The briefs may not exceed 7 pages,
7 excluding exhibits. Counsel must comply with Local Rule 251 with respect to discovery disputes or
8 the motion will be denied without prejudice and dropped from the Court's calendar.

9 All dispositive pre-trial motions shall be filed no later than October 9, 2023, and heard no later
10 than November 20, 2023, in Courtroom 1 at 1:30 p.m. before the Honorable Ana de Alba, United States
11 District Judge. In scheduling such motions, counsel shall comply with Fed. R. Civ. P. 56 and Local
12 Rules 230 and 260.

13 **V. Motions for Summary Judgment or Summary Adjudication**

14 At least 21 days before filing a motion for summary judgment or motion for summary
15 adjudication, the parties are ORDERED to meet, in person or by telephone, to confer about the issues to
16 be raised in the motion.

17 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
18 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
19 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
20 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
21 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

22 The moving party SHALL initiate the meeting and SHALL provide a complete, proposed
23 statement of undisputed facts at least five days before the conference. The finalized joint statement of
24 undisputed facts SHALL include all facts that the parties agree, for purposes of the motion, may be
25 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
26 statement of undisputed facts.

27 In the notice of motion, the moving party SHALL certify that the parties have met and
28 conferred as ordered above or set forth a statement of good cause for the failure to meet and confer.

1 Failure to comply may result in the motion being stricken.

2 **VI. Pre-Trial Conference Date**

3 December 1, 2023, at 1:30 p.m. in Courtroom 1 before the Honorable Ana de Alba, United
4 States District Judge.

5 The parties are ordered to file a Joint Pretrial Statement pursuant to Local Rule 281(a)(2). The
6 parties are further directed to submit a digital copy of their pretrial statement in Word format, directly
7 to Judge de Alba's chambers, by email at ADAorders@caed.uscourts.gov.

8 Counsels' attention is directed to Rules 281 and 282 of the Local Rules of Practice for the
9 Eastern District of California, as to the obligations of counsel in preparing for the pre-trial conference.
10 The Court will insist upon strict compliance with those rules. In addition to the matters set forth in the
11 Local Rules the Joint Pretrial Statement shall include a Joint Statement of the case to be used by the
12 Court to explain the nature of the case to the jury during voir dire.

13 **VII. Trial Date**

14 January 9, 2024, at 8:30 a.m. in Courtroom 1 before the Honorable Ana de Alba, United States
15 District Judge.

16 A. This is a jury trial.

17 B. Counsels' Estimate of Trial Time: Not specified.

18 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
19 California, Rule 285.

20 **VIII. Settlement Conference**

21 The parties are advised that Judge de Alba requires that a mandatory settlement conference be
22 conducted prior to trial by a federal judge. Where the parties filed a summary judgment/adjudication
23 motion, a settlement conference shall be scheduled 30 days after the motion is fully briefed. In cases
24 where the parties do not file a summary judgment/adjudication motions, a settlement conference shall
25 be scheduled 30 days after the last day for the filing of dispositive motions. Unless otherwise requested
26 by the parties, the Settlement Conference will be set before Magistrate Judge Baker.

27 ///

1 **IX. Request for Bifurcation, Appointment of Special Master, or other**
2 **Techniques to Shorten Trial**

3 Not applicable at this time.

4 **X. Related Matters Pending**

5 There are no pending related matters.

6 **XI. Compliance with Federal Procedure**

7 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
8 and the Local Rules of Practice of the Eastern District of California, and to keep abreast of any
9 amendments thereto. The Court must insist upon compliance with these Rules if it is to efficiently
10 handle its increasing case load and sanctions will be imposed for failure to follow both the Federal
11 Rules of Civil Procedure and the Local Rules of Practice for the Eastern District of California.

12 **XII. Effect of this Order**

13 The foregoing order represents the best estimate of the court and counsel as to the agenda most
14 suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the
15 parties determine at any time that the schedule outlined in this order cannot be met, counsel are ordered
16 to notify the court immediately of that fact so that adjustments may be made, either by stipulation or by
17 subsequent status conference.

18 The dates set in this Order are considered to be firm and will not be modified absent a showing
19 of good cause even if the request to modify is made by stipulation. Stipulations extending the deadlines
20 contained herein will not be considered unless they are accompanied by affidavits or declarations, and
21 where appropriate attached exhibits, which establish good cause for granting the relief requested.

22 Failure to comply with this order may result in the imposition of sanctions.

23 IT IS SO ORDERED.

24 Dated: **December 9, 2022**

25 
UNITED STATES MAGISTRATE JUDGE